

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

COMMONWEALTH OF PUERTO RICO,
et al.,

Defendants.

CIVIL NO. 12-2039 (FAB)

**JOINT STIPULATION AND [PROPOSED] ORDER
ON STAFFING AND SUPERVISION**

Plaintiff, the United States of America, and Defendants, the Commonwealth of Puerto Rico and the Puerto Rico Police Bureau (collectively, “the Parties”), with the concurrence of the Monitor and Special Master and in compliance with the Court’s directives at the January 14, 2022, status conference, Min. of Proceedings ¶ 4, ECF No 1945, enter into this Joint Stipulation on Staffing and Supervision (“Joint Stipulation”).

The purpose of this Joint Stipulation is to ensure that a sufficient number of sworn personnel are deployed to provide adequate field supervision, pursuant to the Agreement for the Sustainable Reform of the Puerto Rico Police Bureau (“Agreement”), ECF No. 60 (July 13, 2013). Specifically, this Joint Stipulation provides a framework for the implementation of Paragraph 13 of the Agreement regarding the allocation of sworn personnel at the Puerto Rico Police Bureau (PRPB) and Paragraphs 135-140 regarding the deployment of supervisors to ensure close and effective supervision in the field. The proper implementation of these paragraphs will facilitate the Commonwealth’s compliance with other key requirements of the Agreement that rely on adequate supervision of rank-and-file officers.

I. BACKGROUND

1. The Agreement requires that the Commonwealth “ensure that an adequate number of qualified first-line supervisors are deployed in the field to allow supervisors to provide close and effective supervision to each officer under the supervisor’s direct command, to provide officers with the direction and guidance necessary to improve and develop as police officers, and to identify, correct, and prevent misconduct.” Agreement ¶ 135. The Agreement also requires that the Commonwealth deploy officers in accordance with a staffing allocation and resource plan (¶ 13); ensure officers are supervised by a single, consistent, and clearly identified supervisor (¶ 136); assign first-line supervisors to supervise a maximum number of officers in the field (¶ 137); provide consistent supervision during supervisor absences (¶ 138); require close and effective supervision by precinct and unit commanders (¶ 139); and ensure that supervisees comply with PRPB policy, Commonwealth and federal laws, and the Agreement (¶ 140).

2. In April 2018 and in compliance with Paragraph 13, the Commonwealth completed a comprehensive staffing allocation and resource study (“2018 Staffing Study”) using a workload-based approach to “assess the appropriate number of sworn and civilian personnel to perform the different [PRPB] functions necessary to fulfill its mission.” Agreement ¶ 13. Based on the results of the 2018 Staffing Study, in October 2018, the Commonwealth developed a staffing and resource allocation plan (“2018 Staffing Plan”) with specific initiatives to recruit, hire, promote, and deploy a sufficient number of sworn and civilian personnel. *See* Ex. A, Pl.’s Resp. to Commonwealth’s Mot. in Compliance, ECF No. 1980-1 (Mar. 22, 2022); *also available at* <https://policia.pr.gov/documentos-de-reforma-en-linea>. In his most recent monitoring report, the Monitor credited the Commonwealth for having completed the 2018 Staffing Study and 2018 Staffing Plan, and observed that implementation of the 2018 Staffing Plan remained necessary to

achieve substantial compliance with Paragraph 13. Fifth Court Monitor Rep. at 9-10, ECF No. 1918-1 (Dec. 20, 2021).

3. The Commonwealth has also acknowledged a shortage of supervisors that it described as an “unprecedented human resources crisis.” Defs.’ Informative Mot. ¶ 3, ECF No. 1880 (Nov. 8, 2021) (discussing the need to fill supervisor vacancies to implement the Agreement’s requirements on supervisory review of vehicle and pedestrian stops). The Commonwealth affirmed the supervisor shortage at a January 14, 2022, status conference. Min. of Proceedings ¶ 4, ECF No. 1945 (Jan. 14, 2022) (“PRPB reports a serious shortage of first line supervisors, Sergeants...[t]he lack of supervision has placed the PRPB in non-compliance with the Agreement.”). Similarly, the Monitor cited insufficient staffing for rating the Commonwealth in non-compliance with Paragraphs 136-140 requiring close and effective supervision of officers in the field. Fifth Court Monitor Rep. at 131-39 (“For example, supervisors are hampered in their ability to manage their agents because of the . . . shortage of supervisors.”).

4. At the January 14, 2022, status conference, the Court ordered the Commonwealth to develop an implementation plan “to address the staffing shortages and staffing allocation issues.” Min. of Proceedings ¶ 4. Specifically, the Court instructed the Commonwealth to work with the United States, Monitor, and Special Master to develop a plan that includes the following components: (a) “an initial step of updating the [2018 Staffing Study],” (b) “the necessary steps PRPB will take to move forward with promotions,” and (c) “the 2018 strategies the Commonwealth was to implement and pursue, but have been abandoned.” *Id.* Despite good faith efforts by the Parties to meet the Court’s initial deadlines for the implementation plan, the Commonwealth reported the need for additional time to complete discussions. Defs.’ Mot. in

Compliance with Order ¶ 5, ECF No. 1971 (Mar. 15, 2022). At a status conference on March 24, 2022, the Court set a deadline of April 13, 2022, for the Commonwealth to file a completed implementation plan on staffing and supervision.

II. STIPULATION

5. The Parties enter into this Joint Stipulation to meet the following two key objectives: (a) ensure that valid methods are used to determine staffing needs and deploy sufficient numbers of sworn and civilian personnel to meet PRPB's mission, in accordance with Paragraph 13 of the Agreement, and (b) provide close and effective supervision of officers in the field, in accordance with Paragraphs 135-140. This Joint Stipulation also provides a framework for developing the implementation plan required by the Court at the January 14, 2022, status conference. *See Min. of Proceedings* ¶ 4. The Commonwealth's implementation of Paragraphs 13 and 135-140 will not only ensure that there are sufficient numbers of supervisors deployed to supervise officers in the field, it will also facilitate the implementation of other important accountability systems that rely on appropriate levels of supervision, such as supervisory review of officers' use of force (¶¶ 43-47) and searches and seizures (¶¶ 59, 62-63, 68-71, 75). Specifically, the Parties stipulate and agree to the following terms:

- a. The Commonwealth shall implement the 2018 Staffing Plan, pursuant to Paragraph 13 and the approved monitoring methodology. *See Monitoring Matrix and Methodology on Professionalization* at 2-4, ECF No. 1327-1 (Aug. 30, 2019).
- b. By April 20, 2022, the Commonwealth shall submit a proposal to the Monitor and DOJ for any updates it intends to make to the 2018 Staffing Plan ("Staffing Plan Update Proposal") to ensure compliance with Paragraphs 135-140 of the Agreement in accordance with the approved monitoring methodology. *See Monitoring Matrix*

and Methodology on Supervision and Management at 1-4, ECF No. 1327-4 (Aug. 30, 2019). The Staffing Plan Update Proposal shall include:

- (1) A timeline for completing any updates to the 2018 Staffing Plan within 90 days of the Court's approval of this Joint Stipulation, including:
 - (i) The dates on which each step necessary for updating the 2018 Staffing Plan will be completed, and
 - (ii) The dates on which each of the steps outlined in the 2018 Staffing Plan will be completed.
 - (2) The names of individuals responsible for implementing any aspect of the updated 2018 Staffing Plan, along with a clear description of each person's role in implementing the plan.
 - (3) The establishment of an executive-level implementation committee with representatives of all Commonwealth agencies necessary for the full and effective implementation of the updated 2018 Staffing Plan.
- c. By May 4, 2022, the Commonwealth will file the Staffing Plan Update Proposal, with DOJ and the Monitor's approval, with the Court.
- d. Every 90 days subsequent to the Commonwealth's filing of the Staffing Plan Update Proposal, the Commonwealth shall submit to the Court a status report that includes:
- (1) Whether the Commonwealth met the deadlines and benchmarks set forth in the Staffing Plan Update Proposal and the updated 2018 Staffing Plan. If the deadlines and benchmarks have not been met, the Commonwealth shall include its plan to remedy those failures and, if necessary, a request to modify the updated 2018 Staffing Plan to accomplish the remediation.

- (2) Whether the Commonwealth made available for inspection or produced supporting documentation to the Monitor and DOJ to demonstrate that it achieved these benchmarks and deadlines, pursuant to Paragraph 267 of the Agreement.
 - (3) A timeline for the next 90 days that includes:
 - (i) when the steps outlined in the updated 2018 Staffing Plan will be completed, and
 - (ii) at least two weeks prior to submitting each status report to the Court, the Commonwealth shall submit a proposed version of the status report to DOJ and the Monitor for approval.
 - (4) Whether there have been any changes in the individuals who are responsible for carrying out the updated 2018 Staffing Plan and a statement of whether the Commonwealth has provided the name for any new individuals to the Monitor and DOJ.
- e. The Parties shall request that the Court schedule a standing status conference to address the Commonwealth's progress every 90 days. At those status conferences, which should be held shortly after the Commonwealth files its status report, the Commonwealth shall make available all people with final responsibility over any aspect of the updated 2018 Staffing Plan, including members of the executive-level implementation committee, all of whom will be available for questioning by the Court.
- f. If the Parties and Monitor are unable to approve the Commonwealth's Staffing Plan Update Proposal or quarterly status reports, either Party or the Monitor may request that the Court resolve the matter.

6. This Joint Stipulation shall be implemented in accordance with the Agreement and the Court's Orders. Nothing in this Joint Stipulation is intended to alter, modify, or substitute any term of the Agreement.

WHEREFORE, the Parties enter into this Joint Stipulation with the concurrence of the Monitor and Special Master in compliance with the Court's directives on January 14, 2022, ECF No. 1945, and respectfully request that the Court adopt and enter the Joint Stipulation as an Order.

WE HEREBY CERTIFY that today we have electronically filed the foregoing document with the Clerk of the Court for the District of Puerto Rico using the CM/ECF system, which will send a copy and notification of filing to the Monitor, the Special Master, and all counsel of record.

RESPECTFULLY SUBMITTED this 13th day of April, 2022,

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